

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DAVID LEROY LEE,)
)
Plaintiff,)
)
v.) NO. 3:12-0536
) Judge Campbell/Bryant
JOHN DOE #1 and JOHN DOE #2,)
)
Defendants.)

TO: The Honorable Todd J. Campbell

REPORT AND RECOMMENDATION

On May 30, 2012, the Court granted plaintiff's application to proceed in forma pauperis, dismissed certain defendants, and granted plaintiff permission to conduct discovery for the purpose of ascertaining the identity of certain "John Doe" defendants (Docket Entry No. 22). The Court further required plaintiff to serve such discovery within fourteen days of his receipt of the Court's order and to move for leave to amend his complaint to add the defendants' proper names within thirty days after he obtained discovery of their identities.

The record suggests that nothing has occurred in this case since entry of the Court's May 30, 2012, order.

On March 22, 2013, the undersigned Magistrate Judge issued an order requiring plaintiff to show cause on or before Monday, April 8, 2013, why his complaint should not be dismissed for failure to prosecute (Docket Entry No. 27). This order admonished plaintiff that his failure to respond may cause the undersigned to recommend that his complaint be dismissed.

On April 1, 2013, the Clerk's mailing to plaintiff of the show cause order was returned, marked "RTS-DISCH 8/8/12." The record further shows that on April 2, 2013, the Clerk updated plaintiff's address and re-mailed the show cause order to such updated address (Docket Entry No. 32). This second mailing was also returned marked "Undeliverable - released 8-8-12" (Docket Entry No. 35).

From the foregoing, the undersigned Magistrate Judge finds that plaintiff has failed to submit his discovery within fourteen days of the Court's earlier order and that he has otherwise failed to prosecute his case and has neglected to keep the Court apprised of his current address. For these reasons, the undersigned Magistrate Judge finds that plaintiff's complaint should be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge RECOMMENDS that plaintiff's complaint be DISMISSED with prejudice.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any

objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'q denied, 474 U.S. 1111 (1986).

ENTERED this 23rd day of April 2013.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge